

REPRESENTATIVE FOR PETITIONER: Richard Block, *pro se*

REPRESENTATIVE FOR ASSESSOR: Shawna Bushhorn, Ripley County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Richard Block,	)	Petition:	69-005-19-1-1-00390-20
	)		
Petitioner,	)	Parcel:	69-18-23-200-003.000-005
	)		
v.	)	County:	Ripley
	)		
Ripley County Assessor,	)	Assessment Year:	2019
	)		
Respondent.	)		

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**January 26, 2021**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and after considering the issues, finds and concludes as follows:

**INTRODUCTION**

1. Richard Block argued that his detached structure was over assessed because the Assessor made mistakes in classification, grade, and depreciation. He also argued that his property was not assessed uniformly as compared to other detached structures. We find that Block failed to meet his burden of proof because he did not provide reliable market-based evidence of value, nor did he demonstrate through statistically reliable evidence that his property did not receive a uniform and equal assessment.

## PROCEDURAL HISTORY

2. Block appealed the 2019<sup>1</sup> assessment for the property located at 999 West County Road 800 South in Madison. The Ripley County Property Tax Assessment Board of Appeals (“PTABOA”) issued a decision valuing the property at \$335,100. Block timely appealed to the Board.
  
3. On November 12, 2020, Jennifer Thuma, the Board’s designated Administrative Law Judge (“ALJ”), held a telephonic hearing. Richard J. Block, Ripley County Assessor Shawna Bushhorn, and Aaron Shelhamer, a consultant for the Assessor, were all sworn as witnesses.
  
4. The parties offered the following exhibits<sup>2</sup>:
  - Petitioner’s Ex. 1: 1525 W Co Rd 925 S Property Record Card (“PRC”)
  - Petitioner’s Ex. 2: 10232 S St Rd 129 PRC
  - Petitioner’s Ex. 3: 6620 South Co Rd. 175 East PRC
  - Petitioner’s Ex. 4: 3599 E Co Rd 1100 NO PRCs
  - Petitioner’s Ex. 5: 1014 E Beech St PRCs
  - Petitioner’s Ex. 6: Notes for Property Record Cards
  - Petitioner’s Ex. 7: 201 Harlan St. ORC
  - Petitioner’s Ex. 8: 431 N. Washington St. PRC
  - Petitioner’s Ex. 9: 999 Co Rd 800 S PRCs
  - Petitioner’s Ex. 10: Summary of Property Record Cards
  - Petitioner’s Ex. 11: Chart Listing Comparison of Adjusted Rates
  - Petitioner’s Ex. 12: Square Footage Comparisons
  - Petitioner’s Ex. 13: Chart—Values of Improvements
  - Petitioner’s Ex. 14: Depreciation Chart
  - Petitioner’s Ex. 15: Proposed Values of Improvements
  - Petitioner’s Ex. 16: Pictures of subject property
  - Petitioner’s Ex. 17: Pictures of comparison property
  - Petitioner’s Ex. 18: Pictures of comparison property with GIS
  - Petitioner’s Ex. 19: Pictures of comparison property
  - Petitioner’s Ex. 20: Pictures of comparison property with GIS
  - Petitioner’s Ex. 21: Pictures of comparison property with GIS
  - Petitioner’s Ex. 22: Pictures of comparison property
  - Petitioner’s Ex. 23: Pictures of comparison property

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<sup>1</sup> Although Mr. Block noted on his Form 131 that he contested the assessed value of his property for 2020, we find this to be an error. The Form 130, Form 115, and all the evidence presented at the hearing reference the 2019 assessment year. Thus, we treat this as a 2019 appeal.

<sup>2</sup> All property record cards Mr. Block offered include notes he typed on the side of the page which expressed his contentions relevant to that exhibit. These notes were not part of the official county property record cards.

Respondent's Ex. A: Building Permit for Detached Garage  
Respondent's Ex. B: 2019 Subject PRC  
Respondent's Ex. C: Picture of Subject--Detached Structure  
Respondent's Ex. D: 3599 E Co Rd 1100 NO PRC  
Respondent's Ex. E: Pictures of 3599 E Co Rd 1100 NO

### **BURDEN OF PROOF**

5. Generally, a taxpayer seeking review of an assessing official's determination has the burden to prove that an assessment is incorrect and what the correct assessment should be. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. Ind. Code. § 6-1.1-15-17.2 (b), (d).
  
6. Here, the burden remains with Mr. Block because although the assessed value increased more than 5% over the prior year, the Indiana Code provides that when a taxpayer makes substantial improvements, the taxpayer retains the burden of proof. In 2018, Block applied for a construction permit to build a detached structure. It was completed that same year along with additional improvements to the house such as porches and concrete patios. These constitute substantial additional improvements. Ind. Code § 6-1.1-15-17.2 (c). Additionally, Block had the burden of proof in making his argument that his assessed value constituted an actionable lack of uniformity and equality. *See Thorsness v. Porter County Ass'r*, 3 N.E.3d 49, 52 (Ind. Tax Ct. 2014) (explaining that the predecessor to Ind. Code § 6-1.1-15-17.2 does not apply to claims based on a lack of uniformity and equality).

### **FINDINGS OF FACT**

7. The subject property consists of 80 acres with improvements including a 3-bedroom single-family house and additional detached structure used for storing equipment and sheltering farm animals. Block and his wife purchased the property in 2014 for \$222,500. Of the 80 acres, 75.53 acres is farmland. When the Blocks bought the

property, it previously featured another older structure which they tore down. *Bushhorn testimony, Block testimony; Resp't. Ex. B.*

8. In 2018, the Blocks applied for a permit to build a detached structure with a listed value of \$55,000. The permit noted that the improvements would include plumbing, insulation, and electricity and that it would be constructed of wood or logs, have a shingled roof, and that the foundation would be “pole.” The Assessor relied partially upon the estimated cost in the permit application for the 2019 assessed value. *Block testimony; Bushhorn testimony, Resp't. Ex. A.*
9. The Blocks completed the detached building in 2018. Although the permit noted the additional amenities, the finished building did not include any plumbing, septic, insulation, or interior finishes. They use the structure to house tractors and farm animals, but they do not park any cars in it because they have a two-car garage adjacent to the house. The only amenities in the detached structure are the concrete floor, a workbench and electricity. It has no separate breaker box but operates on electricity from the house. The structure has two finished dormer windows, a loft, porches, and two overhead doors. The overhead doors were added in 2019. *Block testimony; Bushhorn testimony; Pet'r Ex. 16; Resp't. Ex. B, C.*
10. Although the permit application noted a cost of \$55,000 the Blocks only spent approximately \$45,000 to construct the building. Mr. Block did some of the work himself and also had help from friends. The structure was built by a local pole barn building company. *Block testimony.*
11. Block also provided evidence of other purportedly comparable detached structures located across Ripley County. These structures had various features including masonry, metal siding, and a gravel floor. They ranged from 480 to 4000 sq. ft. and were assessed for between \$6,100 and \$50,800 in 2019. They were constructed between 2002 and 2018. *Block testimony; Pet'r Exs 1-23; Resp't Ex. 4.*

12. The 2019 assessment was based on the cost approach and included both the new detached structure as well as an increase to the home based on the addition of porches and concrete. The Assessor gathered the information by using GIS photos because she did not feel comfortable coming onto the property and into the new detached structure. She applied depreciation using Indiana’s cost depreciation tables. *Shelhamer testimony*.

#### ANALYSIS

13. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting the property’s true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. True tax value does not mean “fair market value” or “the value of the property to the user.” Ind. Code § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance (“DLGF”). Ind.Code § 6-1.1- 31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as “market value in use,” which it in turn defines as “[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” MANUAL at 2.
14. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are “appropriate for determining true tax value.” MANUAL at 2. In an assessment appeal, a USPAP-compliant, market-value-in-use appraisal is often the best evidence of a property’s true tax value. *Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer any other evidence that is relevant to a property’s true tax value, such as actual construction costs, sales information for the property under appeal, and sales or assessment information for comparable properties. MANUAL at 3; see also *Eckerling*, 841 N.E. at 674; Ind. Code § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties’ assessments in property tax appeals). Simply attacking the methodology used to compute an assessment or strictly applying the assessment guidelines normally does not suffice to make a case. See *Eckerling*, 841 N.E.2d at 678. In any case, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for the year under appeal was January 1, 2019.

15. As discussed above, Block had the burden of proof. At the hearing, he claimed that he was only disputing the value of the detached structure, not the entire property.<sup>3</sup> When a property is used as a single economic unit, as is the case here, such piecemeal approaches are disfavored because they have a tendency to distort the overall value of the property. Nevertheless, the Assessor did not object to this method, and we will examine Block’s evidence.
16. Block argued that the Assessor incorrectly classified the structure as a detached garage instead of a pole barn, unfairly applied depreciation and grade, and then failed to uniformly assess the structure in the same way as other nearby detached structures. Block contended that the structure should be classified as a pole barn not a detached garage, that the grade should be changed from C +2 to D and assessed at \$11,399. He also claimed that his depreciation should be increased in line with the higher rates of the barns he offered as comparables.
17. The majority of these arguments focus on the methodology used by the Assessor. Classification, grade/condition, and depreciation are all different steps in the mass appraisal process. As discussed above, simply attacking the methodology used by the Assessor is insufficient. *Eckerling* at 678. Block needed to provide his own independent market-based evidence of value. To the extent that Block did provide an assessment comparison, we note that a party offering assessment data must also show the properties are comparable using generally accepted appraisal and assessment practices. I.C. § 6-1.1-15- 18(c); *see also Long*, 821 N.E.2d at 470-71. Conclusory statements that a property is “similar” or “comparable” do not suffice. Taxpayers must explain how the properties compare to each other in terms of characteristics that affect market value-in-use. *Long*, 821 N.E.2d at 471. Taxpayers must similarly explain how relevant differences affect values. *Id.* Block failed to provide reliable evidence adjusting the comparables for the relevant differences from the subject property—such as the significant variations in size and age.

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<sup>3</sup> Mr. Block initially asked the Board in the hearing to review depreciation on his home and geothermal system also, but then later clarified that he only wanted the Board to review the detached structure.

18. Block also argued that the subject property was not assessed uniformly compared to other similar detached structures. We interpret that as a claim for relief based on a lack of uniformity and equality in assessments as required by the Indiana Constitution. Uniformity and equality in assessment may be measured through an assessment ratio study. *Westfield Golf Practice Ctr., LLC v. Washington Twp. Ass'r*, 859 N.E.2d 396, 399 n.3 (Ind. Tax Ct. 2007). Such a study “compare[s] the assessed values of properties within an assessing jurisdiction with objectively verifiable data, such as sales prices or market value-in-use appraisals.” *Thorsness*, 3 N.E.2d at 51 (citation omitted). Where a ratio study shows an actionable lack of uniformity, a taxpayer may be entitled to an equalization adjustment bringing its assessment to the common level shown by the study. In providing guidance about how to compile and evaluate the data necessary for a ratio study, the DLGF has incorporated into law the International Association of Assessing Officers’ (“IAAO”) Standard on Ratio Studies (July 2007). *See* 50 IAC 27-1-4; *see also*, *Thorsness*, 3 N.E.2d at 53-54 (citing to predecessor to 50 IAC 27-1-4).
19. In *Thorsness*, the taxpayer offered evidence showing that while his property was assessed at 99.9% of its sales price, six other properties in his subdivision were assessed at an average of 79.5% of their recent sales prices. *Thorsness*, 3 N.E.3d at 50. At the administrative level, we rejected the taxpayer’s claim on grounds that it neither conformed to professionally accepted standards, nor was based on a statistically reliable sample of properties. *Id.* Although the Tax Court recognized that the taxpayer’s evidence was relevant, it affirmed our conclusion that the evidence lacked probative value to show his assessment exceeded the common level of assessment for the township. *Id.* at 54.
20. While Mr. Block offered some evidence from which sales-to-assessment ratios might be drawn it falls far short of what is contemplated by the IAAO Standard and the DLGF’s rules. As in *Thorsness*, Block’s evidence does not provide a statistically reliable sample sufficient to show an actionable lack of uniformity and equality or entitle his property to an equalization adjustment.

## CONCLUSION

21. As discussed above, Block had the burden of proof but he failed to make a case for any change in the assessment. He primarily attacked the Assessor's methodology instead of providing his own reliable market-based evidence. While he presented a significant amount of data, he failed to show how that data supported a different value for the subject property using generally accepted appraisal principles. Finally, although he made some claims that the subject property was not uniformly assessed, he did not provide statistically reliable evidence to support that claim.

## FINAL DETERMINATION

The Board finds for the Assessor and orders no change to the subject property's 2019 assessment.

ISSUED: \_\_\_\_\_

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.